

***ADOPTION OF AN AMENDMENT TO CHAPTER 101
(SUBDIVISION ORDINANCE)
OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA***

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Monday, July 1, 2002, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment regarding Chapter 101 (Subdivision Ordinance) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

***BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY,
VIRGINIA:***

Amend Chapter 101 (Subdivision Ordinance), as follows:

Amend the Subdivision Ordinance, Section 101-2-1 (Procedure), by revising Paragraph (2) to read as follows:

(2) The subdivider shall, after receiving approval of a proffered generalized development plan, proffered or approved final development plan, or approved special exception plat for a cluster subdivision or waiver of the minimum lot size requirements, which plan or plat is certified by a professional engineer, architect, landscape architect or land surveyor authorized to practice as such by the State, or a preliminary subdivision plat, submit a construction plan (unless the subdivider chooses to convey pursuant to provisions of Section 101-2-4(c)(2)) which conforms to the requirements of this Article, to State and County standards for the control of erosion and sedimentation, and to the Utility Plan requirements of *Code of Virginia*, Section 15.2-2269. Such construction plan shall be submitted prior to submission of the final subdivision plat or in conjunction with the submission of such plat.

Amend the Subdivision Ordinance, Section 101-2-3 (Preliminary subdivision plat.), by revising Paragraph (d) to read as follows:

(d) Approval. Preliminary plats shall be approved by the Director and such action shall be evidenced on copies thereof by his signature; provided that the provisions of this Chapter are complied with in the preparation thereof.

[[Provisions (d)(1)-(d)(3) remain the same]]

(4) An approved preliminary plat must comply with all provisions of law and shall be valid for a period of five (5) years, provided the subdivider: (i) submits a complete final subdivision plat for all or a portion of the property within one (1) year of the original date of approval of the preliminary plat; and (ii) after such submission, diligently pursues approval of the final subdivision plat. Diligent pursuit of approval means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modification thereto.

No sooner than three (3) years following such preliminary subdivision plat approval, and upon ninety days written notice by certified mail to the subdivider, the Director may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat. A preliminary plat may be re-approved (redated) prior to expiration to extend its validity for a one-year period from the date of re-approval if such plat complies with all provisions of law in effect at the time of re-approval. A preliminary plat shall be null and void if the final plat of the subdivision is not approved and recorded within five (5) years after approval of the preliminary plat. Approval of a preliminary plat shall not be considered to be an acceptance of such plat for recordation.

Amend the Subdivision Ordinance, Section 101-2-4 (Construction plan.), by revising Paragraph (c)(1) to read as follows:

(c) Preparation, exceptions.

(1) A construction plan shall be submitted by the subdivider in accordance with the construction plan requirements established under this Section to insure general compliance with the Zoning Ordinance and provide specific information on improvements to be made by the subdivider as required in this Ordinance and the Public Facilities Manual. A construction plan shall be submitted in metric measurements or the English equivalent to metric measurements. Where the submission of a preliminary subdivision plat is required by Section 101-2-1(1)(A), such plat must be approved prior to the submission of the construction plan. The construction plan must be submitted prior to or in conjunction with the submission of the final subdivision plat, and such plan must be approved by the Director prior to the approval of the final subdivision plat. An approved construction plan shall remain valid as long as the preliminary subdivision plat remains valid or, where the submission of a preliminary subdivision plat is not required by Section 101-2-1(1)(A), then for a period of five (5) years from the date of approval of the construction plan. The construction plan shall include final details in accord with the Erosion and Sedimentation Control Ordinance and with the Utilities Plan.

Amend the Subdivision Ordinance, Section 101-2-5 (Final subdivision plat.), by revising Paragraph (b) to read as follows:

(b) Generally. The original of the final plat and at least sixteen (16) prints of the final plat of the subdivision or section thereof, accompanied by payment of all required fees, shall be submitted for approval. If a construction plan for the proposed subdivision or section thereof has not previously been submitted, then it shall be submitted in conjunction with the submission of the final plat of the subdivision or section thereof. The original and one (1) print of the final plat with the action of the approving authority noted thereon shall be retained by the Director until such time as the same is to be recorded. At that time, the original and one (1) print of the final plat shall be transmitted forthwith to the office of the Clerk of the Circuit Court in a manner acceptable to the Director. After recordation, the Clerk of the Circuit Court shall return the original of the final plat to the Director who shall return it to the surveyor or engineer who prepared the plat.

Amend the Subdivision Ordinance, Section 101-2-5 (Final subdivision plat.), by revising Paragraph (d)(2) to read as follows:

(2) The construction plan for the required physical improvements shall be submitted prior to or in conjunction with the submission of the final plat and must be approved prior to the approval of the final plats. Construction plans submitted pursuant to Section 101-2-1(2) which are approved on or after January 1, 1992 and approved construction plans submitted pursuant to Section 101-2-1(2) which

are valid as of January 1, 1992 shall be null and void if the final subdivision plat is not recorded in the County land records within five (5) years of such approval of the construction plan, provided, however, that where the submission of a preliminary subdivision plat is required by Section 101-2-1(1)(A), construction plans submitted pursuant to Section 101-2-1(2) and approved after July 1, 2002, shall remain valid for so long as the approved preliminary subdivision plat remains valid. Approval of the final plats of subdivisions or sections thereof shall not be deemed the acceptance by the County of any street, alley or other public place shown on the plats for maintenance, repair or operation thereof, and said approval shall be null and void if said plats are not filed for recordation within six (6) months after the date thereof; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the County, or where the developer has furnished surety to the County by certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the County, whichever is greater. Recorded plats valid on or after January 1, 1992 shall be valid for a period of five (5) years after the approval of such recorded final subdivision plats or for such longer period as the Director may, at the time of approval, have determined to be reasonable, taking into consideration the size and phasing of the proposed development. During such period of validity, no change or amendment to any local ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval shall apply if it would adversely affect the right of the developer to commence and complete the approved development, except in case of mistake, fraud or change in circumstances substantially affecting the public health, safety or welfare, or in order to implement to the greatest extent possible local regulations adopted pursuant to the Chesapeake Bay Preservation Act, the Federal Clean Water Act, Section 402 (p.) of the Stormwater Program and regulations promulgated by the Environmental Protection Agency.

These amendments shall become effective at 12:01 a.m., July 2, 2002.

GIVEN under my hand this 1st day of July, 2002.

SIGNATURE ON ORIGINAL
NANCY VEHR
Clerk to the Board of Supervisors